

May 30, 2022

Dear Colleagues

I am writing to urge you to vote yes for Article 73, which encourages the state Department of Energy Resources to adopt a strong net-zero opt-in stretch energy building code. Wait! Don't let your eyes glaze over quite yet. This is really important.

We all know that building codes regulate wiring and fire alarms and safe construction practices. We may not know that building codes regulate energy usage as well. They do.

Energy is such a hot topic that Massachusetts has three building codes dealing with it:

- A “base code” which largely follows international standards.
- A (common, ordinary) stretch code which allows municipalities to go beyond the base code and which is essentially required for any or city town that wants to participate in the Green Communities program. (Arlington was among the first to sign up for this, and almost 300 municipalities have followed suit.).
- An “opt-in stretch energy code,” required in last year’s Road Map Legislation, which would allow municipalities who want to play a leading role in fighting climate change to adopt aggressive net zero policies.

There is one other thing about building codes we need to know. They preempt local regulation. If they don’t help us deal with energy and reducing greenhouse gas emissions, they stand in the way.

The power of building codes in Massachusetts is illustrated by the fate of the Clean Heat bylaw that we adopted late in 2020. That was a commonsense measure to avoid new construction and major renovations using fossil fuels. Since then, Los Angeles and New York City have adopted similar measures, and other Massachusetts towns and cities have followed our lead. But we could not implement the bylaw without special legislation from Beacon Hill. The reason: It went beyond the building code and was therefore contrary to state law. Our home rule petition is still pending. Our Clean Heat bylaw is still just a hope.

It is not a forlorn hope. The Department of Energy Resources (DOER) is working on updating the Stretch Code and promulgating a “Net Zero Stretch Code.” Its draft proposals, however, have been disappointing. In hearings in March, witnesses almost uniformly advocated a more aggressive, true net zero stretch code. The Department, however, was listening to counsel that never made it into the public record. It was deaf to pleas to stop the installation of fossil-fuel infrastructure that will have to be ripped out as we reach the state’s climate change deadlines. It even claimed, contrary to the advice of Attorney General Maura Healey, that it would be illegal to incorporate a clean heat policy into the proposed opt-in energy code.

I have focused on building electrification, because Arlington has already addressed this issue. But there are many other ways to fold a net-zero strategy into the building code. We need to ensure tight buildings with Passive House standards. We need to require the use of renewable fuels. We need to monitor technological fixes to be sure they work in practice. We need to incorporate embodied carbon into our thinking. The legislature directed DOER to let avantgarde cities and towns do this. But still the department holds back.

Arlington has been a state leader in the fight for a true net-zero stretch code. Last summer, our Town Manager, Adam Chapdelaine, reset the whole debate by asking the Joint Municipalities Committee to let Arlington and other like-minded municipalities to be the state’s “test kitchen” on reducing emissions from

buildings. In November, Arlington led 30 local governments in demanding a true net-zero stretch code. In March, Arlington underscored these points in comments submitted to DOER - and the Massachusetts Municipal Association followed our lead.

DOER will not allow municipalities like Arlington to lead the way on climate change unless local governments raise their voices to demand the authority to show that aggressive net zero buildings policies can succeed. We need Town Meeting to act. Article 73 will send a message to DOER that our entire town is determined to achieve net zero emissions in the building sector. Importantly, however, Article 73 is a resolution, not a bylaw. It is an important step forward in the ongoing process.. It does not, however, commit Arlington to approve whatever DOER comes up in December. At that time the town will have to evaluate the specific proposal before it.

The time is short. It is easy to write letters like this one, but every decade is hotter than the one before, and the U.N. panel on climate change has shown us we must act quickly if we are to have any hope in averting the worst. The time for politics as usual is over. I urge you all to stand up and say, now is the time to stride forward, confident that we can make a difference. Arlington is small, but it has been a leader. Let's keep it there.

I welcome your questions and the opportunity to discuss this with you. Since I became involved in Clean Heat Arlington's campaign for a Clean Heat bylaw in 2020, I've devoted much of my life to this cause. I've testified before the state legislature, submitted comments to DOER, drafted letters, organized other towns and municipalities, and made myself a pest in innumerable ways, because we need to move forward. And, believe me, I am not alone in this. Building codes seem abstruse, but in every area of environmental regulation, great ideals come down to nitty-gritty measures.

We need to translate the poetry of our ideals to the prose of action. Article 73 isn't the final word on the subject. But it is a step forward. Let's all take that step together.

Best.

Pat Hanlon (Precinct 5)

PS: To give you background, I've attached the following appendices:

A: Letter from Adam Chapdelaine and others to Secretary Kathleen Theoharides (11/29/2022)

B: Letter from Adam Chapdelaine and others to Commissioner Patrick and Director Maggie McCarey (3/17/2022). The Massachusetts Municipal Association filed a very similar letter on the same date which I'd be happy to provide to anyone interested.

C. MA Net Zero Building Coalition – Net Zero Stretch Code Framework (February 2022)

Please consult the Clean Heat Website for further information <https://cleanheatforarlingtonma.org/>



**Town of Arlington
Office of the Town Manager**

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Town Manager

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November 29, 2021

Secretary Kathleen A. Theoharides
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Dear Madame Secretary,

The undersigned represent chief executive/administrative officers of Massachusetts cities and town deeply engaged in the battle against climate change. We strongly support the Commonwealth's commitment to achieve net zero emissions by 2050 as well as the interim goals required by this year's "Next Generation Roadmap for Massachusetts Climate Policy." This and more has to be done. Fires in California, floods in Germany, and record June temperatures at home remind us of the urgency of our situation. As the recent IPCC report on Climate Change in 2021 shows, we are now well past the 11th hour.

The Next Generation Roadmap legislation signed by the Governor in March requires DOER to develop a specialized stretch energy code that includes net-zero building performance standards and a definition of a net-zero building. The statute lays out an ambitious process of public engagement as the Department develops the required code. We welcome the opportunity to participate in this process.

At the outset, we strongly believe that both the statute and practical reality call for a true net zero stretch code. The specialized stretch code is optional. No municipality is required to adopt it, and not everyone will. But for the towns and cities ready to lead the way, the stretch code promulgated by DOER must be strong enough to get the job done. Nothing less than net zero will suffice. The municipalities that opt in are eager to be the Commonwealth's test kitchen. They need bold policies to test.

A true net zero stretch code must cover all residential and commercial buildings. It must foster high performance building envelopes, such as those contemplated by Passive House standards. It

must promote electrification, and at the very least provide the municipalities who opt in with clear authority to prohibit on-site combustion in new building and major rehabilitation. Moreover, since time is of the essence, any phase-in period must be short and supported by clear and convincing evidence.

There are many ways of reaching our goal and that of the statute. We welcome the chance to engage in discussion about means. As local governments, we understand the importance of pragmatism. It is essential, however, that the path chosen leads to the right destination.

We appreciate your enthusiasm and professionalism and that of your staff. We hope that the process you are beginning will result in a code that will maintain Massachusetts's place as a national leader in the fight against global warming. Other jurisdictions, including California and the District of Columbia, have moved decisively in this direction, and we do not wish the Commonwealth to be left behind. We strongly support the process that is unfolding and look forward to providing any assistance we can.

Respectfully,

Adam Chapdelaine
Arlington Town Manager

John Mangiaratti
Acton Town Manager

Paul Bockelman
Amherst Town Manager

Michael Herbert
Ashland Town Manager

Patrice Garvin
Belmont Town Administrator

Mel Kleckner
Brookline Town Administrator

Louis DePasquale
Cambridge City Manager

Stephen Crane
Concord Town Manager

Thomas Ambrosino
Chelsea City Manager

Mayor Yvonne Spicer
City of Framingham

Travis Ahern
Holliston Town Administrator

James Malloy
Lexington Town Manager

Mayor Gary Christenson
City of Malden

Gregory Federspiel
Manchester Town Administrator

Mayor Breanna Lungo-Koehn
City of Medford

Mayor Paul Brodeur
City of Melrose

Jennifer Wolowicz
Monson Town Administrator

Mayor Ruthanne Fuller
City of Newton

Mayor David Narkewicz
City of Northampton

Tony Mazzucco
Norwood Town Manager

Andrew Maclean
Pepperell Town Administrator

Mayor Joseph Curtatone
City of Somerville

Henry Hayes
Sudbury Town Manager

Sean Fitzgerald
Swampscott Town Administrator

Darrin Tangeman
Truro Town Manager

Stephen Maio
Wakefield Town Administrator

Michael Driscoll
Watertown Town Manager

Meghan Jop
Wellesley Executive Director

Leon Gaumond
Weston Town Manager

Beth Rudolph
Winchester Town Manager

NET ZERO DEFINITION

An energy-efficient, all-electric, low embodied carbon building that achieves carbon neutral building operations through the production and/or procurement of renewable energy.

CARBON NEUTRALITY GOAL

Achieve statewide carbon neutrality per the Global Warming Solutions Act which calls for emissions reductions from 1990 levels of at least 50% by 2030 and at least 75% by 2040, leading to "net zero" by 2050. Support municipalities in meeting or exceeding these emission reduction goals.

EQUITY GOAL

Prioritize net zero stretch code adoption and energy-efficient affordable housing in energy-burdened communities. Ensure "No community left behind."

COMMERCIAL & RESIDENTIAL PRINCIPLE

Transition all building types to 100% renewable energy. Ensure "No square foot left behind."

NEW CONSTRUCTION & RENOVATION PRINCIPLE

Electrify all buildings starting with new construction and major renovations.

ENERGY EFFICIENCY

IMPORTANT NEW CODE PROVISION

Set energy efficiency standards consistent with leading benchmarks to reduce greenhouse gas emissions, operational expenses, and grid load.

ELECTRIFICATION

IMPORTANT NEW CODE PROVISION

Require primary heating/cooling systems, appliances and other systems to be 100% electric to take full advantage of renewable energy and provide cost-effective heat and air-conditioning.

RENEWABLE ENERGY

IMPORTANT NEW CODE PROVISION

Require buildings to be powered by 100% renewable energy which can be on-site or off-site, generated and/or purchased from approved sources, so that building operations are carbon neutral.

EMBODIED CARBON

IMPORTANT NEW CODE PROVISION

Require Whole Building Life Cycle Assessment (WBLCA) to account for and minimize embodied carbon in the sourcing, production, and transportation of building materials.

BUILDING ENERGY REPORTING & COMMISSIONING

IMPORTANT NEW CODE PROVISION

Require building energy reporting and disclosure, together with initial and periodic commissioning, to ensure that building systems operate as designed.

REFRIGERANTS

IMPORTANT NEW CODE PROVISION

Require the selection of low-impact refrigerants and refrigerant recycling (prohibiting disposal) to limit ozone depletion and carbon emissions.

EXEMPTIONS & WAIVERS

IMPORTANT NEW CODE PROVISION

Exemptions should be narrowly defined, fully justified, and subject to review as technology changes. Waivers should only be available in limited instances through a clearly defined process. These might include emergency generation and process gases or other instances of technological infeasibility.



**Town of Arlington
Office of the Town Manager**

**Adam Chapdelaine
Town Manager**

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March 17, 2022

Commissioner Patrick Woodcock
Director Maggie McCarey
Department of Energy Resources
100 Cambridge Street Suite 1020
Boston MA 02114
Attention: Nina Mascarenas

Re: Stretch Code Straw Proposal Comments

Dear Commissioner Woodcock and Director McCarey:

The undersigned are chief executive/administrative officers of Massachusetts cities and towns committed to the fight against climate change. Many of us previously signed a letter dated November 29, 2021, to Secretary Theoharides welcoming the department's work on a specialized stretch energy code (which almost everyone has been calling the "net zero stretch code" for the last year) and offering our cooperation in developing a true net zero stretch code that would give municipalities the tools to fight climate change in a way that recognizes the urgency of the challenge.

Our letter did not address all of the elements that are important in that effort, but it did outline certain key points that, in our view, must be included in the opt-in specialized net zero stretch code. These include the following:

- The code should set forth a definition of net zero that conforms with generally accepted standards, as required by the statute.
- It should require electrification, with any exemptions narrowly defined, fully justified, and subject to review as technology changes.
- It should set higher performance energy efficiency standards comparable to Passive House standards.

- It should apply to major renovations as well as new construction.

We also observed that, since time is of the essence, any phase-in period must be short and supported by clear and convincing evidence.

The department's "straw proposal" of February 8 on the net zero code is disappointing. While there are some welcome innovations in the proposed updating of the Stretch Code, the proposed specialized net-zero stretch code is not net-zero and is not really a stretch. It adds at most a few details to the Stretch Code update. It is a missed opportunity.

We support a strong update of the Stretch Code. New requirements there will be applicable right away to at least 299 cities and towns. But the case for boldness is even stronger with the specialized "net-zero" stretch code. Adopting the new code will be optional, and in that freedom lies its strength. The local governments that opt into the specialized stretch code will be a coalition of the willing. A strong specialized stretch code should deliver to them what they have asked for. It should enable them to lead the way to a faster and surer transition to net zero. A weak one would obstruct our efforts to blaze a path to a net-zero future.

We do not believe that the DOER's proposed specialized stretch code satisfies the language and intent of the legislature. The statute directs the department to

develop and promulgate . . . a municipal opt-in specialized stretch energy code that includes, but is not limited to, net-zero building performance standards and a definition of net-zero building, designed to achieve compliance with the commonwealth's statewide greenhouse gas emission limits and sublimits established pursuant to chapter 21N.

Contrary to the statute, the department has not proposed a real definition of a "net zero building." Its purported definition states: "Net Zero new construction is compatible, as built, with the Commonwealth's net-zero emissions economy in 2050." Translated, this means that anything that the department believes will fulfill the aspirations of the "net zero emissions economy in 2050" will count. It is not even assumed that an individual net zero building will actually be net-zero emissions. Net zero buildings according to the department's formulation are not, for example, required to use onsite or offsite renewables, not even to fully offset any unavoidable onsite fossil fuel combustion. The ostensible definition is not even fulfilled until the future date when the state's electric grid generates zero emissions. As such, the department's draft definition is "net-zero ready" at best. The department's failure to define a net-zero building in a meaningful way dooms any effort to define net-zero performance standards.

We call on the department to promulgate a specialized stretch code that contains a clear and rigorous definition of a net-zero building as well as net-zero building performance standards that enable net zero emissions to be reached today, not by 2050. Our cities and towns seek the code to serve as a tool to help us meet our climate goals, preventing onsite combustion of fossil fuels in both new construction and major renovation to the greatest extent possible. It should not be

necessary for advocates to go back to the legislature for this. It's what the legislature was trying to achieve last March.

We continue to be willing to work with the department in developing a specialized net-zero stretch energy code that will allow the leading-edge municipalities to be the leading edge. To achieve that, however, the department needs to reconceive the specialized stretch code in a bolder frame. The specialized code should harness the power of the most enthusiastic towns and cities, not pull back on the reins.

Respectfully,

Adam Chapdelaine

Arlington Town Manager

Michael Cahill

Mayor of Beverly

Travis Ahern

Holliston Town Administrator

Breanna Lungo-Koehn

Mayor of Medford

Paul Brodeur

Mayor of Melrose

James Malloy

Lexington Town Manager

Beth Rudolph

Winchester Acting Town Manager